

January 24, 2003

Vicki Vial-Taylor
Assistant County Attorney
525 Portland Ave. South, 12th Floor
Minneapolis, MN 55415

Barbara and Kevin Johnson
5238 Fremont Avenue North
Minneapolis, MN 55430

RE: In the Matter of the Denial of the Family Foster Care License of
Barbara and Kevin Johnson; OAH Docket No. 11-1800-15207-2

Dear Ms. Vial-Taylor and Ms. and Mr. Johnson:

I have reviewed the materials supplied in connection with the Department's Motion for Summary Disposition in the above matter. Section 245A.08, subd. 5, of the Minnesota Statutes provides that an applicant whose application was denied must not be granted a license for two years following a denial, unless the applicant's later application "contains new information which constitutes a substantial change in the conditions that caused the previous denial." In her November 6, 2002, letter appealing the DHS' denial of her second application, Ms. Johnson stressed that Mr. Johnson had completed his probation and treatment, including a one-year anger management class and individual counseling. In order to assess whether this might be "new information which constitutes a substantial change in the conditions that caused the previous denial," I need to know more about the reasons for the denial of the original license application in 2000. It is evident from the materials supplied in connection with the motion that the denial was based upon a finding that Mr. Johnson was disqualified, but the materials do not provide detailed information concerning the specific reason for the disqualification determination. I would like the parties to submit that information to me and to each other by Friday, February 7, 2003. I have executed the Protective Order supplied by the Department as of today's date.

As an alternative, it is clear that more than two years have now passed since the denial of the Johnsons' original license application on October 23, 2000. Rather than pursuing their appeal of the current denial of their license, it seems to me that the Johnsons could, if they wish, withdraw this appeal and submit a new application for licensure to the County at this time. The two-year period set forth in the statute would not apply to the new application. If the Department nevertheless denied that application on other grounds, the Johnsons could still appeal that denial and request a hearing on the merits. If the Johnsons wish to pursue this alternative, they should notify me and Ms. Vial-Taylor by Monday, February 3, 2003.

Accordingly, the hearing scheduled for January 28, 2003, is hereby continued indefinitely. If the Johnsons do not opt to withdraw their appeal in this matter, I will issue my written ruling on the Motion for Summary Disposition as soon as possible after receiving the additional information concerning the disqualification.

Sincerely,

/s/ Barbara L. Neilson

BARBARA L. NEILSON
Administrative Law Judge

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BLN:mo